

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WANDA J. JOHNSON and VETERANS ADMINISTRATION,
MEDICAL CENTER, Houston, Tex.

*Docket No. 96-672; Submitted on the Record;
Issued January 21, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained a recurrence of disability on December 14, 1994 causally related to her December 30, 1992 employment injury.

On December 30, 1992 appellant, then a 34-year-old medical supply technician, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that her infection in her toe next to the little toe on her right foot was due to her wearing her work steel toe shoes. The Office of Workers' Compensation Programs accepted the claim for aggravation of preexisting neuroma right foot. Appellant resigned from her employment effective May 23, 1994.

On January 20 and 23, 1995 appellant filed a notice of recurrence of disability alleging that her disability had not resolved from the original injury.

In a letter dated March 1, 1995, the Office advised appellant of the deficiencies in her claim for recurrence of disability for the period December 14, 1994 to February 1, 1995.

In a progress notes dated December 13 and 23, 1994 and January 23, 1995, Dr. Glover O.L. Johnson diagnosed severe phlebitis of both lower extremities, worse on right. In admission notes dated December 16, 1994, Dr. Johnson noted that appellant "has a long-standing history of since December 30, 1992 phlebitis and troubles with her legs." Dr. Johnson also noted that appellant had "a lot of swelling in both feet and this swelling appears to be edematous and longstanding in origin."

In an attending physician's supplemental report (Form CA-20a) dated January 23, 1995, Dr. Johnson diagnosed chronic phlebitis of right foot and lower leg, severe pain and swelling. Dr. Johnson checked "yes" that appellant's present condition was due to the injury for which compensation was claimed.

In a decision dated April 18, 1995, the Office rejected appellant's claim for a recurrence of disability. The Office found that the medical evidence submitted failed to demonstrate a recurrence of disability on or after January 20, 1995 causally related to the employment injury.

In a letter received by the Office on May 19, 1995, appellant requested reconsideration of the denial of her claim and submitted a May 1, 1995 report from Dr. Johnson in support of her request.

In a report dated May 1, 1995, Dr. Johnson diagnosed phlebitis of the right lower extremity and a neuroma of the right fourth toe. He opined that "[A]ll of these symptoms are related to her original injury." Dr. Johnson opined that appellant was still clinically disabled and that her prognosis was guarded to poor.

In a decision dated July 25, 1995, the Office found the evidence submitted by appellant was insufficient to warrant modification of the prior decision. In an attached memorandum to the Director, the Office noted that Dr. Johnson's opinion was based upon an inaccurate history. The Office noted that "[T]he operative report and admission and discharge summary in file did not indicate that the claimant had been diagnosed with phlebitis at the time of surgery (removal of the neuroma). On the contrary, the discharge summary of March 22, 1994 indicated that there was no evidence of venous thrombosis." The Office also noted that Dr. Johnson failed to explain how and why appellant's current problems were due to her neuroma surgery and not related to her concurrent conditions of diabetes mellitus and circulatory problems.

The Board finds that appellant has not established that she sustained a recurrence of disability on December 14, 1994 causally related to her December 30, 1992 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.¹

In the instant case, appellant submitted a January 23, 1995 form report and a May 1, 1995 report from Dr. Johnson in support of her claim. Dr. Johnson diagnosed phlebitis, checked a "yes" box indicating that appellant's condition was caused or aggravated by her employment. This report from Dr. Johnson is of limited probative value because he did not describe any specific employment factors or provide medical rationale explaining the medical mechanics through which appellant's accepted employment injury of neuroma could have caused her phlebitis.² The Board has held that, when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

² See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value).

insufficient to establish causal relationship.³ Dr. Johnson's May 1, 1995 report is also insufficient as he fails to explain why appellant's accepted employment injury was responsible for her phlebitis of the right lower extremity and neuroma of the right fourth toe rather than her diabetes mellitus and circulatory problems. Therefore, his May 1, 1995 report is not sufficient to support appellant's claim that her phlebitis is related to her employment accepted neuroma.

To establish her claim for recurrence, appellant must submit a medical opinion that is both well reasoned and of reasonable medical certainty⁴ relating her disability in December 1994 to the employment injury. Without such an opinion, the medical evidence in this case is insufficient to discharge her burden of proof.

The decisions of the Office of Workers' Compensation Programs dated July 25 and April 18, 1995 are hereby affirmed

Dated, Washington, D.C.
January 21, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

³ *E.g. Lillian M. Jones*, 34 ECAB 379, 381 (1982).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 352 at n. 11 (1989).